

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1786

IN THE MATTER OF:

Served December 23, 1977

Application of CENTRAL DELIVERY )  
SERVICE OF WASHINGTON, INC., for )  
Temporary Authority to Perform )  
Charter Operations Pursuant to )  
Contract-American Airlines )

Application No. 1022

Application of CENTRAL DELIVERY )  
SERVICE OF WASHINGTON, INC., for )  
Certificate of Public Convenience )  
and Necessity to Perform Charter )  
Operations Pursuant to Contract- )  
American Airlines )

Application No. 1023

Consolidated Docket No. 399

By Application Nos. 1022 and 1023 filed November 7, 1977, Central Delivery Service of Washington, Inc. (Central), seeks temporary authority and a certificate of public convenience and necessity pursuant to Title II, Article XII, Sections 4(d)(3) and 4(b) of the Compact, respectively, to transport, in charter operations pursuant to contract, American Airlines aircraft crews having a prior or subsequent movement by air, together with their baggage between Dulles International Airport, Chantilly, Va., and Washington National Airport, Gravelly Point, Va.

Central asserts that it is presently providing the above service pursuant to contract with American Airlines in accordance with the finding of the Commission in Order No. 1432, served May 27, 1975, that such service was not subject to regulation by WMATC.

By motion filed November 7, 1977, Central seeks to dismiss the above-referenced applications, asserting that:

1. Central is performing the service for which authority is sought herein in reliance on Order No. 1432, and, its operations are, in most instances, along the George Washington Parkway, which traverses Columbia Island, an area located near the Virginia side of the Potomac River, but a part of the District of Columbia;

2. That, in light of the findings in Order No. 1432, no authority is required from this Commission to conduct the subject operation, inasmuch as the service would be between two points located solely within the Commonwealth of Virginia. See Compact, Title II, Article XII, Section 1(b); and

3. That where a service not generally available to the public is conducted over irregular routes, regulation on the basis of a suggestion that a particular highway may be used for operating convenience does not alter the nature of a service from intrastate to interstate.

The Commission initially notes probable jurisdiction over the subject transportation service. In Order No. 1573, served June 23, 1976, operations traversing Columbia Island were found to be subject to our regulation, and this finding appears to be directly contradictory to the Commission's determination in Order No. 1432; we do feel, however, that this question should be resolved after full argument at a public hearing. Accordingly, Central's motion to dismiss the above-referenced applications shall be denied, without prejudice.

Title II, Article XII, Section 4(d)(3) of the Compact authorizes the Commission to grant temporary authority, with or without hearing and in its discretion, to enable the provision of a service for which there is an immediate and urgent need, and where there is no carrier service capable of meeting such need. As indicated above, Central is already providing the subject service and, presumably, will continue to do so absent our direction to the contrary. Moreover, as indicated above, we believe that the jurisdictional issue should not be decided merely on the basis of the pleadings submitted to date. Accordingly, Application No. 1022 shall be scheduled for public hearing.

Title II, Article XII, Section 4(b) of the Compact provides that an application for a certificate of public convenience and necessity may be granted "after hearing held upon reasonable notice". The Commission shall, therefore, schedule a public hearing on Application No. 1023 on a consolidated basis with Application No. 1022.

Applicant will be assessed an amount preliminarily estimated to cover the cost of the hearing in accordance with Title II, Article XII, Section 19 of the Compact.

THEREFORE, IT IS ORDERED:

1. That Application Nos. 1022 and 1023 of Central Delivery Service of Washington, Inc., for temporary authority and a certificate of public convenience and necessity, be, and they are hereby, scheduled for public hearing to commence Thursday, January 26, 1978, at 9:30 a.m., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

2. That Applicant be, and it is hereby, directed to publish once, in a newspaper of general circulation in the Metropolitan District, notice of said applications and the hearing thereon, in the form prescribed by the staff of the Commission, no later than Friday, December 30, 1977.

3. That Applicant be, and it is hereby, directed to post in each of its vehicles, continuously through the date of the public hearing, notice of said applications and hearing in the form prescribed by the staff of the Commission no later than Friday, December 30, 1977.

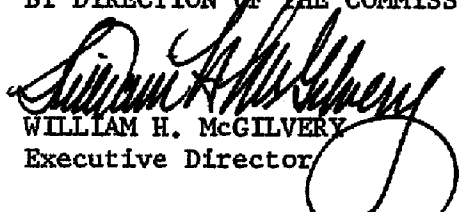
4. That Applicant be, and it is hereby, directed to produce at said hearing affidavits of said publication and posting.

5. That any person desiring to protest shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard in this matter shall so notify the Commission, in writing, no later than Friday, January 13, 1978, and shall mail a copy of said protest or notice to counsel of record for applicant, Jeremy Kahn, Esquire, Suite 733 Investment Building, 1511 K Street, N. W., Washington, D. C. 20005.

6. That Applicant be, and it is hereby, directed to file with the Commission six copies of a projected revenue and revenue deductions statement for the proposed service, the original to be produced at the above-scheduled public hearing, no later than 12 noon, Thursday, January 19, 1978, and to serve a copy thereof on each party of record as of January 13, 1978.

7. That Applicant be, and it is hereby, assessed \$300 pursuant to Title II, Article XII, Section 19 of the Compact, and directed to deliver said amount to the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than 12 noon, Thursday, January 19, 1978.

BY DIRECTION OF THE COMMISSION

  
WILLIAM H. MCGILVERY  
Executive Director

BARNES, Vice Chairman, not participating